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Robert E. Best JR.

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EXAMINER

VAN HANDEL, MICHAEL P

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/026,835	Applicant(s) BEST ET AL.	
	Examiner MICHAEL VAN HANDEL	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-53, 58-63 and 68-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-53, 58-63, 68-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 3/23/2009. Claims **48-53, 58-63, 68-73** are pending. Claims **48, 52, 53, 58, 62, 63, 68, 73** are amended. Claims **1-47, 54-57, 64-67, 74-77** are canceled.

Response to Arguments

Applicant's arguments regarding claims **58** and **68**, filed 3/23/2009, have been considered, but are moot in view of the new ground(s) of rejection.

2. Applicant's arguments regarding claim **48**, filed 3/23/2009, have been fully considered, but they are not persuasive.

Regarding claim **48**, the applicant argues that the combination of Frengut et al. and Given does not teach instructing the computer to deactivate a screen saver, request a home web page, and receive emails in response to the activation signal. The examiner notes; however, that the features upon which applicant relies (i.e., request a home web page and receive emails) are not recited in rejected claim 48. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 48 only recites instructing the computer to deactivate a screen saver in response to the activation signal. As noted in the Office Action below, Given discloses providing a proximity sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can

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act by sending an artificial “keystroke” in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, a screen saver is deactivated and the user logged in, but if the separation between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). As such, the examiner maintains that Given meets the limitation of “instructing the computer to deactivate a screen saver in response to the activation signal” and that it further be obvious to modify the computer system of Frengut et al. to include connecting sensors to a keyboard interface connected serially to a keyboard and computer and to receive a user proximity identifier in response to a user’s proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims **48-53**, **58-63**, and **68-73** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims **48**, **58**, and **68**, the examiner fails to find support for the phrase “instructing the computer to deactivate a screen saver in response to the activation signal” within

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the context of the claims. The first claim limitation recites a step of “transmitting an activation signal from a presence detector to an interface unit connected in a series connection between a computer and a keyboard.” The fourth claim limitation recites a step of “sending a keyboard signal from the interface unit over the series connection to the computer.” As previously noted by the examiner in the Office Action mailed 6/12/2008 in response to a similar amendment made by Applicant, Applicant’s specification discloses an embodiment including an interface unit in paragraph 35 of the specification. This paragraph further states that a screen saver is deactivated in response to a mouse movement signal, not a keyboard signal (paragraph 35 of Applicant’s specification). As such, the examiner fails to find support for “instructing the computer to deactivate a screen saver in response to the activation signal” within the context of the claim.

Referring to claims **58** and **68**, the examiner fails to find support for instructing “the computer to deactivate a screen saver, request a home web page, receive emails, and launch a telephone dialer in response to the activation signal,” within the context of the claims, as currently claimed. Applicant cites paragraph 27 of Applicant’s specification as supporting the phrase. Paragraph 27 of Applicant’s specification states that presence detector instructions can be configured to direct an action in response to receiving a presence indication from presence detectors. A user can configure the presence detector instructions to direct launching of a specific application in response to receiving a presence indication. For example, the user can configure the presence detector instructions to direct launching of typical applications such as an e-mail program and a telephone dialer. Paragraph 27 further states that the user can configure the presence detector instructions to direct an action of an application in response to receiving a presence indication. For example, the user can configure the presence detector instructions to

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send and/or receive mail in an e-mail application (paragraph 27 of Applicant's specification).

Paragraph 26 of Applicant's specification states that the presence detector instructions can be configured to send a command to web GUI instructions to request and display the web page that the user has established as his home page (paragraph 26 of Applicant's specification). Paragraph 35 of Applicant's specification states that a screen saver can be deactivated in response to presence detection (paragraph 35 of Applicant's specification). Tables 1 and 2 of Applicant's specification provide further examples of actions that can be carried out in response to presence detection. The examiner notes, however, that Applicant's specification fails to disclose performing all of these functions: deactivating a screen saver, requesting a home web page, receiving emails, and launching a telephone dialer, in response to a single activation signal from presence detection. The examiner particularly notes that the embodiment the claims are drawn to, the embodiment of paragraph 35 including the interface unit, fails to disclose performing all of these steps in response to a single activation signal. Paragraph 35 recites sending keyboard signals to refresh a current page or open a predetermined web page and/or sending mouse signals to deactivate a screen saver. The embodiment of paragraph 35 does not disclose deactivating a screen saver, requesting a home page, receiving emails, and launching a telephone dialer in response to a single keyboard signal (paragraph 35 of Applicant's specification).

Further referring to claims **58** and **68**, the examiner fails to find support for the amended limitations "transmit a presence indicator from the presence detector to a set top box" and "configure the set top box to turn on a television, tune to a specific channel, and adjust a volume in response to the activation signal" in the context where presence is detected in the vicinity of a computer. Applicant cites paragraphs 19 and 43 in support of the amended limitations.

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Paragraph 19 recites example types of information delivery systems in accordance with embodiments of the invention including a set-top box (paragraph 19 of Applicant's specification). Applicant states that paragraph 43 explains how computer 870 can be a home entertainment server that is coupled to television 850, set-top box 852, stereo system 860, and other information delivery systems. As noted by the examiner in the Office Action mailed 6/12/2008 in response to a similar amendment made by Applicant, paragraph 43 recites that, in an embodiment, when presence detector 855 determines that a user is in the vicinity of television 850, the presence detector 855 can send a presence indicator to computer 870. Computer 870 can determine whether any information delivery action is to be taken based at least in part on the presence indicator and the *source* of the presence indicator and send an information delivery action, if any, to television 850/set-top box 852 (italicized for emphasis)(paragraph 43 of Applicant's specification). That is, the detection is performed at detector 855 (at the television/set-top box) and the delivery action is performed based on the source of the presence indicator (television/set-top box). In the claim; however, detection is performed at detector 260 at the computer, as described in the separate embodiment in paragraph 35 of Applicant's specification. As such, the examiner fails to find explicit support for detecting a user at the computer and performing television/set-top box related actions.

Furthermore, paragraph 43 states that computer 870 determines whether any information delivery action is to be taken based in part on the *source* of the presence indicator (italicized for emphasis). This implies that television/set-top box related actions (such as described in Table 3) will be taken in response to detection at the television/set-top box, while computer-related actions (such as described in Tables 1 and 2) will be taken in response to detection at the

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computer. Performing the computer-related functions of deactivating a screen saver, requesting a home web page, receiving emails, and launching a telephone dialer and the set-top box functions of turning on a television, tuning to a specific channel, and adjusting a volume all in response to a single activation signal in response to a keyboard signal created by detection of the user at a computer does not appear to be supported by Applicant's specification. Applicant's specification describes computer-related actions being performed upon detection of a user at a computer (Tables 1 & 2), television/set-top related actions being performed upon detection of a user at a television/set-top box (Table 3), and stereo-related functions being performed upon detection of a user at a stereo (Table 4). The purpose of using the computer as a home entertainment server in Applicant's specification appears only to be to store the information delivery actions for the information delivery systems in a single location.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims **48-51, 53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. (of record) in view of Given (of record).

Referring to claim **48**, Frengut et al. discloses a method, comprising:

- transmitting an activation signal from a presence detector (p. 2, paragraph 26);

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- in response to the activation signal, receiving an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user (p. 2, paragraph 26);
- querying for a user profile associated with the user identifier (p. 2, paragraph 26);
- accessing the user profile to determine actions to be executed in response to the user identifier (p. 2, paragraph 26 & p. 3, paragraph 27);
- sending the user identifier to a presence database (p. 2, paragraph 26);
- querying the presence database for other user identifiers associated with the user identifier (p. 4, paragraph 31 & p. 6, paragraph 44); and
- receiving presence updates identifying presence of the other user identifiers (p. 4, paragraph 31 & p. 6, paragraph 44).

Frengut et al. does not specifically disclose that the identification signal identifies a user associated with a transponder. Given discloses utilizing a radio transmitter and receiver combination, one on the user and one at a terminal, as a proximity sensor. Such a sensor could include a badge (containing a passive transponder) that is passed near a transmitter to detect a user's presence (col. 4, l. 17-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Frengut et al. to include a radio transmitter and receiver proximity sensor, such as that taught by Given in order to provide a more efficient means of access. The combination of Frengut et al. and Given does not specifically teach transmitting an activation signal from the presence detector to an interface unit connected in a series connection between a computer and a keyboard and sending a keyboard signal from the interface unit over the series connection to the computer, the keyboard signal comprising the user

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identifier and instructing the computer to deactivate a screen saver; however, Given discloses providing the sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can act by sending an artificial “keystroke” in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, the screen saver is deactivated and the user logged in, but if the separation between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the computer system of Frengut et al. to include connecting sensors to a keyboard interface connected serially to a keyboard and computer and to receive a user proximity identifier in response to a user’s proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface.

Referring to claim **49**, the combination of Frengut et al. and Given teaches the method according to claim 48, further comprising launching an application in response to the user identifier (Frengut et al. p. 2, paragraph 26).

Referring to claim **50**, the combination of Frengut et al. and Given teaches the method according to claim 48, further comprising launching an application based on a time of day and on the user identifier (Frengut et al. p. 2, paragraph 26; p. 4, paragraph 33; & p. 7, paragraph 48).

Referring to claim **51**, the combination of Frengut et al. and Given teaches the method according to claim 48, further comprising launching an application that retrieves weather (Frengut et al. p. 2, paragraph 26; p. 3, paragraph 29; p. 4, paragraph 31; & p. 5, paragraph 40) and traffic information (Frengut et al. p. 6, paragraph 41).

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Referring to claim **53**, the combination of Frengut et al. and Given teaches the method according to claim 48, further comprising requesting a refresh of a webpage (Frengut et al. p. 2, paragraph 26).

7. Claim **52** is rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. in view of Given, and further in view of Stas et al. (of record).

Referring to claim **52**, the combination of Frengut et al. and Given teaches the method according to claim 48. The combination of Frengut et al. and Given does not specifically teach denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Frengut et al. and Given to include setting a time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

8. Claims **58-61**, **63**, **68-71**, **73** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. in view of Given, and further in view of Robarts et al. (of record).

Referring to claims **58** and **68**, Frengut et al. discloses a system/computer readable medium, comprising:

- a processor executing instructions stored in memory that cause the processor to:
 - o transmit an activation signal from a presence detector (p. 2, paragraph 26);

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- in response to the activation signal, receive an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user (p. 2, paragraph 26);
- query for a user profile associated with the user identifier (p. 2, paragraph 26);
- access the user profile to determine actions to be executed in response to the user identifier (p. 2, paragraph 26 & p. 3, paragraph 27);
- instruct the computer to request a home web page and receive emails in response to an activation signal (p. 2, paragraph 26; p. 3, paragraphs 28, 29; p. 5, paragraph 40; & p. 6, paragraph 41);
- send the user identifier to a presence database (p. 2, paragraph 26);
- query the presence database for other user identifiers associated with the user identifier (p. 4, paragraph 31 & p. 6, paragraph 44); and
- receive presence updates identifying presence of the other user identifiers (p. 4, paragraph 31 & p. 6, paragraph 44).

Frengut et al. does not specifically disclose that the identification signal identifies a user associated with a transponder. Given discloses utilizing a radio transmitter and receiver combination, one on the user and one at a terminal, as a proximity sensor. Such a sensor could include a badge (containing a passive transponder) that is passed near a transmitter to detect a user's presence (col. 4, l. 17-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Frengut et al. to include a radio transmitter and receiver proximity sensor, such as that taught by Given in order to provide a more efficient means of access. The combination of Frengut et al. and Given does not specifically teach

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transmitting an activation signal from the presence detector to an interface unit connected in a series connection between a computer and a keyboard and sending a keyboard signal from the interface unit over the series connection to the computer, the keyboard signal comprising the user identifier and instructing the computer to deactivate a screen saver; however, Given discloses providing the sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can act by sending an artificial “keystroke” in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, the screen saver is deactivated and the user logged in, but if the separation between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the computer system of Frengut et al. to include connecting sensors to a keyboard interface connected serially to a keyboard and computer and to receive a user proximity identifier in response to a user’s proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface. The combination of Frengut et al. and Given further discloses providing chat services in response to user identification (Frengut et al. p. 5, paragraph 40) and implementing the system in conjunction with technology that combines television and computers (Frengut et al. p. 8, paragraph 64). The combination of Frengut et al. and Given does not specifically teach instructed the computer to launch a telephone dialer, transmitting a presence indicator from the presence detector to a set top box, or configuring a set top box to turn on a television, tune to a specific channel, and adjust a volume in response to the activation signal.

Robarts et al. discloses using a combination of explicit and implicit user context modeling techniques to identify and provide appropriate computer actions based on a current context (see Abstract). Robarts et al. further discloses setting sets of attributes and rules related to a common theme (col. 22, l. 40-57). Robarts et al. still further discloses a Home theme set that provides access to hands-free telephone services (col. 23, l. 30-32) and a Watching TV theme set that provides functionality to control the remote and displays current and future shows (col. 49, l. 6-8). Robarts et al. discloses that multiple themes can be used simultaneously to provide appropriate information and functionality to a user in a given context (watching TV at Home)(col. 29, l. 48-56). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the user detection system in the combination of Frengut et al. and Given to provide hands-free telephone services and control over a remote and television when a user is detected as being present in a home and watching TV, such as that taught by Robarts et al. in order to provide a computer system with a better appreciation of a user's context (Robarts et al. col. 1, l. 37-38).

Referring to claims **59** and **69**, the combination of Frengut et al., Given, and Robarts et al. teaches the system/computer readable medium according to claims 58 and 68, respectively, further comprising means for launching an application in response to the user identifier (Frengut et al. p. 2, paragraph 26).

Referring to claims **60** and **70**, the combination of Frengut et al., Given, and Robarts et al. teaches the system/computer readable medium according to claims 58 and 68, respectively, further comprising means for launching an application based on time of day and on the user identifier (Frengut et al. p. 2, paragraph 26; p. 4, paragraph 33; & p. 7, paragraph 48).

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Referring to claims **61** and **71**, the combination of Frengut et al., Given, and Robarts et al. teaches the system/computer readable medium according to claims 59 and 69, respectively, further comprising means for launching an application that retrieves weather (Frengut et al. p. 2, paragraph 26; p. 3, paragraph 29; p. 4, paragraph 31; & p. 5, paragraph 40) and traffic information (Frengut et al. p. 6, paragraph 41).

Referring to claims **63** and **73**, the combination of Frengut et al., Given, and Robarts et al. teaches the system/computer readable medium according to claims 58 and 68, respectively, wherein the instructions further cause the processor to refresh a webpage (Frengut et al. p. 2, paragraph 26).

9. Claims **62**, **72** is rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. in view of Given, further in view of Robarts et al., and still further in view of Stas et al.

Referring to claims **62** and **72**, the combination of Frengut et al., Given, and Robarts et al. teaches the system/computer readable medium according to claims 58 and 68, respectively. The combination of Frengut et al. and Given does not specifically teach denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Frengut et al., Given, and Robarts et al. to include setting a time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit
2424

MVH